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Maclaren Europe Limited*

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MACLAREN EUROPE LIMITED,	:	
	:	
Plaintiff,	:	
	:	INDEX No. 11 cv 4688 (HB)
-against-	:	
	:	
ACE AMERICAN INSURANCE COMPANY,	:	
a/k/a ACE USA,	:	
	:	
Defendant.	:	
-----X		

PLAINTIFF'S STATEMENT OF MATERIAL FACTS
PURSUANT TO LOCAL RULE 56.1

Plaintiff Maclaren Europe Limited ("MEL"), in connection with its motion for summary judgment filed this same day, hereby states that the following are material facts for which it contends there are no genuine issues to be tried.

1. Plaintiff Maclaren Europe Limited ("MEL") is an English corporation with its primary place of business in Northhamptonshire, England. Declaration of Sadiq Toama dated October 6, 2011 at ¶ 2.

2. Between February 2005 and April 2006, Indebir Sahni (a/k/a Rana Sahni) was an insurance broker doing business in the State of New York. Deposition of Alan Magner dated

March 28, 2012. Hugel Declaration, Exh. R at 4; Exh Q at 4; New York State Insurance Department Release dated May 6, 2009 (produced by ACE as ACE 134).

3. Between February 2005 and April 2006, Indebir Sahni (“Sahni”) operated as an insurance broker through his companies, I.S. Sahni, Inc. and Sahgner Risk Managers, LLC. Deposition of Alan Magner dated March 28, 2012. Hugel Declaration, Exh. R at 4; Exh Q at 4; New York State Insurance Department Release dated May 6, 2009 (produced by ACE as ACE 134).

4. In 2006 both I.S. Sahni and Sahgner Risk Managers LLC were based in the State of New York. Deposition of Alan Magner dated March 28, 2012. Hugel Declaration, Exh. R at 4; Exh Q at 4; New York State Insurance Department Release dated May 6, 2009 (produced by ACE as ACE 134).

5. AMW Ougheltree & Associates LLC (“Ougheltree”) acted as a sub-broker for Sahni in procuring the 2004 policy¹ for MEL and Maclaren Hong Kong Ltd. Hugel Declaration, Exh. N.

6. Ougheltree informed ACE in 2004 when applying for insurance, that MEL, Maclaren Hong Kong and Maclaren USA were separate companies. Hugel Declaration, Exh. N.

7. The application for insurance submitted by Ougheltree in 2004 identified MEL’s address in England, Maclaren Hong Kong address in China and Maclaran USA’s address in Connecticut. Hugel Declaration, Exh. N.

8. Ougheltree informed ACE that it was acting as a sub-broker for another broker in submitting the application for insurance in 2004. Hugel Declaration, Exh. N.

¹ All references to “the Policy” or to a particular years Policy (i.e. “the 2006 Policy”) mean the International Advantage Commercial Insurance policy issued by Defendant ACE to plaintiff.

9. The application for insurance submitted to ACE by Ougheltree in 2004 identified I.S. Sahni, Inc. as the producer. Hugel Declaration, Exh. N.

10. ACE understands the term “producer” to be synonymous with “broker” in connection with the procurement of insurance. Hugel Declaration, Exh. G at 20.

11. In March 2004, ACE agreed to issue liability insurance covering only MEL and MHK. (“the 2004 Policy”). Hugel Declaration, Exh. O.

12. ACE incorrectly issued the 2004 Policy with Maclaren USA as an insured, but in September 2004, corrected the policy to list only MEL and Maclaren Hong Hong as named insureds. Hugel Declaration, Exh. C, Exh P.

13. The 2004 policy was renewed by ACE in March 2005. Hugel Declaration, Exh. D.

14. Sahni was MEL’s broker for the renewal of the policy in 2005 and 2006. Hugel Declaration, Exhs. J, K, L and T.

15. For the renewal of the policy in 2005 and 2006, Sahni used Program Brokerage Corp as his sub-broker. Hugel Declaration, Exhs. Q and R.

16. In 2005 and 2006, Program Brokerage Corp was an insurance broker operating in the State of New York. Hugel Declaration, Exhs Q and R.

17. Program Brokerage Corp, informed ACE that it was acting on behalf of another broker in requesting renewals of the policy in 2005 and 2006. Hugel Declaration, Exh. Q.

18. The 2006 renewal application submitted by Program Brokerage Corp to ACE identified Sahgner Risk Managers LLC as the agent for the insured. Hugel Declaration, Exh. Q.

19. MEL wired \$45,000 to Sahnger Risk Manager’s on February 22, 2006. Hugel Declaration, Exhs. L and M.

20. The money wired by MEL to Sahgner Risk Managers on February 22, 2006 was for payment of the premium on the renewal of the ACE policy due to expire on March 10, 2006. Hugel Declaration, Exh. K.

21. ACE delivered the 2006 policy to Program Brokerage Corp in New York. ACE's

Response to MEL's Second Set of Interrogatories dated May 16, 2012 - Response 1(c).

22. The cancellation notice sent by ACE did not state the amount of money due on the policy. Hugel Declaration, Exh. S.

23. The cancellation notice sent by ACE provided less than 15 days notice of cancellation. Hugel Declaration, Exh. S.

24. MEL did not receive actual knowledge of the cancellation notice sent by ACE until 2009. Hugel Declaration, Exh. Z.

Dated: New York, New York
June 13, 2012

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ATTORNEYS FOR PLAINTIFF

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